



D U R H A M Open Space & Trails Commission

At the December 18, 2013 Durham Open Space and Trails Commission (DOST) meeting, the Commissioners voted to recommend to the City Council that they consider the use of condemnation to acquire two trail easements on two properties just north of I-85. (See attached). These properties are both owned by North Pointe Development Associates. The first is between I-85 and North Pointe Drive and the second is south of North Pointe Drive and houses Costco. These properties are part of a Real Estate Investment Trust, North Pointe CGL-LLC, managed by Armada Hoffler.

As the Council knows, the West Ellerbe Creek Trail has been a part of the DOST Trails Master Plan for many years. The North Carolina Department of Transportation (NCDOT) built a pedestrian tunnel under I-85, at considerable cost, to accommodate this trail and the necessary easements to build the trail were secured back in the 1990s, based on the adopted Durham Open Space and Trails Master Plan, using the existing easements and the I-85 pedestrian tunnel. The City has spent considerable money and several years of work on the design for the trail, only to discover that the creek has moved in places and that the new Neuse River buffer regulations call for a wider buffer than the guidelines called for when the original easements were secured. The revised design for the trail is complete and the City is ready to move forward to construction.

The owner of the two properties mentioned above has indicated to the City staff that they are not interested in providing the additional land (which is less than a half an acre, below a retaining wall, and would coincide with an existing sewer easement.) The owners site security reasons as their main concern and are not willing to discuss the matter any further. The City needs to acquire the additional trail easement and would acquire the minimum needed for trail construction and maintenance. This project will also add a traffic signal to North Point Drive that would serve the driveways leading into both properties. The cost of the traffic signal is approximately \$150,000. The signal will provide a significant benefit to the property owners, and it is unlikely that the City would undertake building this signal independent of the trail project.

We know that in the past the City has used condemnation, as a last resort, to complete the corridor for the American Tobacco Trail. Specifically, in March of 1997 a resolution passed to pursue condemnation for property to complete the American Tobacco Trail, but the resolution is worded in such a way as to make this process an option for any trail property that cannot be acquired through “all reasonable efforts”. We are also fully aware that this could be a costly and time consuming step, but one that we would like the City Council to consider to be able to construct this trail within its initial alignment. City Staff has shown us a viable alternative to the original alignment, but the original alignment is the one that has widespread DOST and

community support, and has already consumed considerable City monies and time, and uses the tunnel that NCDOT agreed to build.

Attachments:

Property Information

1997 City Council Resolution for Condemnation

2009 Agenda Item